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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,763	02/04/2004	David E. Grober		3650
7590 11/14/2008				
David E. Grober 616 Venice Blvd. Venice, CA 90291			EXAMINER MAHONEY, CHRISTOPHER E	
			ART UNIT 2862	PAPER NUMBER
			MAIL DATE 11/14/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/771,763

Applicant(s)

GROBER, DAVID E.

Examiner

Christopher E. Mahoney

Art Unit

2862

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 37-60, 62-65 and 67-76 is/are pending in the application.
- 4a) Of the above claim(s) 40, 41, 49-60, 62-65, 67-69 and 73-76 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 37-39, 42-48 and 70-72 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 37-48, drawn to a stabilized buoy platform with a device mounted on the stabilized system, classified in class 396, subclass 55.
- III. Claims 49-50, and 73-76, drawn to a height adjustment device, classified in class 248, subclass 653.
- IV. Claims 62-65, drawn to a method of fighting fires.
- V. Claims 52-60, drawn to a method of stabilizing a device on a buoy including mounting two devices on the buoy, classified in class 441, subclass 21.

Inventions I, III, IV and V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as use for a stabilized buoy platform which does not utilize fighting fires or adjusting height on a non buoy platform or fighting a fire. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Groups III-V, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

This application contains claims directed to the following patentably distinct species of the claimed invention:

A1 a camera;

A2 a thermal imager;

B1 a sensor;

C1 a GPS

D1 a particle projector which projects water;

D2 a particle projector which projects chemical(s);

D3 a particle projector which projects paint;

D4 a particle projector which projects solvent;

D5 a particle projector which projects sand;

D6 a particle projector which projects rock(s)

E1 a paint brush tool;

E2 a drill tool;

E3 a welder tool.

Newly submitted claims 40-41, 49-51, 52-60, 62-65, 67-69 and 73-76 are directed to an invention that is independent or distinct from the invention originally claimed for the reasons given above.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 40-41, 49-51, 52-60, 62-65, 67-69 and 73-76 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Objections

Claims 37, 47-48 are objected to because of the following informalities:

Claim 37 recites in paragraph (e) limitations of a tool. The tool is part of a non-elected invention and paragraph (e) appears to be superfluous.

There is a lack of antecedent basis for the computer in claims 47-48. It is unclear if the computer is part of the buoy or not. It is unclear if the computer is part of the claimed invention or not

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 37-39, 42-48, and 70-72 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear in claim 37 if the applicant means to claim at least one sensor and at least one tool or at least two devices which includes at least one sensor (or a non-elected tool instead

of a sensor). If the former is intended, then claim 37 becomes a non-elected claim. If the latter is intended, then paragraph (e) fails to further limit claim 37.

It is unclear in claim 47-48 if the computer is part of the buoy or not. There is a lack of antecedent basis for the sensor image recited in claim 47.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 45 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not reasonably describe the combination of stabilization in 3 axes in combination with motion of at least 360 degrees.

Claim 46 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for stabilizing a platform on a buoy, does not reasonably provide enablement for remotely controlling the device(s) or operating the devices while on the buoy. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(c) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 37-38, 43-45, 47-48 and 72 are rejected under 35 U.S.C. 102(b) as being anticipated by Fuereder teaches a stabilized buoy platform comprising a buoy 11 at least on or more active stabilizing heads 32 mounted to the buoy and at least one device which includes one of a camera (visionics), sensor 32, stabilized from movements of the buoy.

Claims 37-38, 43-45, 47-48 and 72 are rejected under 35 U.S.C. 102(e) as being anticipated by Royalty (U.S. Pat. No. 6,859,185). Royalty teaches a stabilized buoy platform (col. 1, lines 10-14) for mounting a stabilized platform 22 on the buoy, a stabilizing system 30/36/38 mounted on the platform for stabilizing a singular or plurality of devices (antenna) from the movements of the buoy in three directions which include pitch, roll and azimuth, and at least one tool (antenna) mounted on the stabilizing system. An antenna both senses and transmits electromagnetic radiation. Any programming which controls the stabilization are commands from a person or computer. Any platform which is mounted on a vehicle is capable of being removed and is therefore removable. The applicant is directed to review figures 1-3.

Claims 37-38, 43-45, 47-48 70, and 72 are rejected under 35 U.S.C. 102(b) as being anticipated by Dodge (U.S. PAT. NO. 4,626,852). Dodge teaches a stabilized buoy platform for mounting a stabilized platform 104 on the buoy 10, a stabilizing system (figure 4) mounted on

the platform for stabilizing a singular or plurality of devices (lamp and solar cells) from the movements of the buoy in three directions which include pitch, roll and azimuth, and at least one tool (lamp and solar cells) mounted on the stabilizing system.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fuereder/Royalty or Dodge in view of Rast (U.S. Pat. No. 2004/0056779). Fuereder/Royalty or Dodge teach the salient features of the claimed invention except for an anchor. Rast teaches that it was known to anchor (116/118) a buoy. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the features taught by Rast for the purpose of preventing loss of the buoy.

Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fuereder/Royalty or Dodge in view of Galante (U.S. Pat. No. 3,258,595). Fuereder/Royalty or Dodge teach the salient features of the claimed invention except for propulsion. Galante teaches that it was known to propel a buoy (see claim 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the features taught by Galante for the purpose of positioning of the buoy.

Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fuereder/Royalty or Dodge. Fuereder/Royalty or Dodge teach the salient features of the claimed invention except

for placing a person on the buoy for performing manual operations. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a person on the buoy operating the individual components for the purpose of maintenance and or testing of the equipment.

Claim 71 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fuereder/Royalty or Dodge in view Harper (U.S. 20060215019). Fuereder/Royalty or Dodge teach the salient features of the claimed invention except for heat sensing. Harper teaches in paragraph 15 that it was known to utilize a heat sensor. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the features taught by Harper for the purpose of monitoring environmental conditions.

Claims 47-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Royalty (U.S. Pat. No. 6,859,185) in view of Rast (U.S. Pat. No. 2004/0056779). Royalty teaches the salient features of the claimed invention except for a camera. Rast teaches that it was known to provide a camera 88/90 on a buoy system. The applicant is directed to review figure 1. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the features taught by Rast for the purpose of allowing monitoring conditions at the buoy.

Response to Arguments

Applicant's arguments filed February 11, 2008 have been fully considered but they are not persuasive.

Regarding claim 37 the applicant argues features which are non-elected and/or non-limiting.

Applicant's arguments with respect to the rejected claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher E. Mahoney whose telephone number is (571) 272-2122. The examiner can normally be reached on 8:30AM-5PM, Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Assouad can be reached on (571) 272-2210. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher E Mahoney/
Primary Examiner, Art Unit 2862